



Practitioner's Docket No. 1001-053

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Czaplicki et al.

Application No.: 09/847,252

Group No.: 1711

Filed: 05/02/2001

Examiner: Morton Foelak

For: TWO COMPONENT (EPOXY/AMINE) STRUCTURAL FOAM-IN-PLACE MATERIAL

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

INFORMATION DISCLOSURE STATEMENT

Applicants submit this statement in accordance with their duty of disclosure under 37 CFR 1.56 and 1.97-1.98. Applicants state as follows:

After submitting a transmittal of payment of issue fee on April 14, 2003, and upon further review of the application prosecution history and U.S. Patent 4,923,902 to Wycech (hereinafter referred to as Wycech), Applicants have realized that (under certain possible interpretations of Applicants' allowed claims) assertions made in a Response and Amendment dated June 4, 2002 are not technically accurate. In an excess of caution, to avoid any potential for a claim that Applicants intended to mislead the Examiner in violation of 37 C.F.R. 1.56, Applicants submit this petition.

In particular, the following assertions were made regarding the references of record in the present application:

- i) "The references of record do not discuss nor does the Office Action

CERTIFICATE OF MAILING/TRANSMISSION (37 C.F.R. section 1.8(a))

I hereby certify that, on the date shown below, this correspondence is being:

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Roni L. Masquelier

Signature

Date: 06-02-03

Roni L. Masquelier

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mention the provision of both "an epoxy component" and an "amine component" as recited in claims 1 and 10 wherein each of the components include "a thixotropic filler" prior to their combination." and

- ii) "In addition to ignoring the above mention language, the Office Action also ignores the language in claims 1 and 10 suggesting the softening of a 'thermoplastic shell' by the 'amine-epoxy exotherm' for the purposes of expansion. None of the references of record disclose such expansion."

It has become apparent, however, upon subsequent review of the file, that Wycech discloses fillers that, although not particularly characterized by Wycech as "thixotropes", could qualify as thixotropes under a broad construction of Applicants claims, and may be present in both an epoxy resin and an amine curing agent prior to mixture thereof. Moreover, it has also become apparent that the mechanism for expansion disclosed by Wycech might be understood as being covered by "the softening of a 'thermoplastic shell' by the 'amine-epoxy exotherm' for the purposes of expansion."

Applicants continue to believe that the allowed claims patentably distinguish over that which is disclosed in Wycech. In particular, Applicants point out that independent claims 1, 10 and 20 each recite the "amine component" and the "epoxy component" in a "substantially liquid form" prior to combination thereof. In contrast, Applicants believe that Wycech appears to disclose forming a "first composition including ... a thermosetting resin" (e.g., an epoxy resin) into a "dough" and forming a "second composition including ... a curing agent" (e.g., an amine component) into a "dough" and combining the doughs to form an expandable material. (see col. 12, lines 15-45)

Applicants submit the present application to confirm that the Wycech reference, although of record for the present application, was thoroughly and independently examined by the Examiner.

Applicants also submit one additional reference listed on attached form PTO/SB/08a. The submission made herewith is in no way intended as an admission that the cited items constitute material prior art or otherwise would render the claims unpatentable in any way. The submission also is in no way intended to substitute for the Examiner's own independent investigation. Applicants respectfully solicit the Examiner's consideration of the cited reference and entry thereof into the record of this application.

No fee is believed to be due with the filing of this Information Disclosure Statement. If any fee is due with the filing of this paper please charge the amount to deposit account 50-1097.

Date: 6-2-03

A handwritten signature in black ink, appearing to read "Scott Chapple", written over a horizontal line.

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